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**REMARKS**

Claims 40-47, 49-56, 58-64, 69-74 and 76-79 are currently pending in the subject application and are presently under consideration. Claims 67 and 68 have been cancelled herein. A listing of all claims can be found on pages 2-9. Amendments to the independent claims include aspects previously recited in dependent claims, and thus no new search is necessary on the part of the Examiner. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Rejection of Claims 67, and 68 under 35 U.S.C. §101**

Claims 67, and 68 stand rejected under 35 U.S.C. §101 as not being directed to statutory subject matter. Applicant thanks the Examiner for the withdrawal of the rejections of claims 50-58 and 65 under this section. In order to advance prosecution and reduce issues on appeal, claims 67 and 68 are cancelled herewith. Applicant reserves the right to pursue these claims in a subsequently-filed continuation application.

**II. Rejection of Claims 40-47, 49, 59, 61-64, 69-74, 76, 78 and 79 Under 35 U.S.C. §103(a)**

Claims 40-47, 49, 59, 61-64, 69-74, 76, 78 and 79 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ogushi *et al.* (US 6,385,497) in view of Shigematsu *et al.* (US 5,432,715) in further view of Martinez *et al.* (US 5,956,665). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Ogushi *et al.* and Shigematsu *et al.* and Martinez *et al.*, individually and in combination, do not disclose or suggest all the claim limitations of the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references

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when combined) must teach or suggest all the claim limitations. *See* MPEP §706.02(j).

Independent claim 40 (and similarly independent claim 74) recites “a factory automation system for providing status information on at least one factory automation component, comprising: a factory automation component distributed by a first party; the component residing at a site location of a second party; and the component communicating status information directly to the first party wherein the first party compiles the status information from the component and utilizes the status information to the benefit of the second party, the status information comprises component source information, first party site address information, component type information, second party site information and component health information; *wherein the server site of the first party communicates version upgrade information to the component in response to version information from the component that does not correspond to a latest version.*” Such aspects had been incorporated in the previous Reply. Ogushi *et al.*, Shigematsu *et al.* and Martinez *et al.*, taken alone or in combination, fail to disclose or suggest such claimed aspects of the subject invention.

In the instant Final Action, the Examiner persists in arguing that Martinez *et al.* discloses the component attributes including type of device and version number, and is thereby able to detect any modification to the component *via* version number, citing col. 2, lines 59-65 of this reference. However, this passage simply discloses that “changes in the configuration of the system are detected,” and that “component attributes, such as the type of device and the version number, for each component installed in the shelves is monitored to detect any modification of the shelf’s configuration....” It is clear that this passage is dealing simply with *obtaining updated information* on attributes of hardware components *after configuration changes have been made*. In other words, the attribute information is derived *from* the components. However, it is clear that this passage does not disclose *communicating version upgrade information to the component in response to version information from the component that does not correspond to a latest version*, as is plainly recited in claim 40. The claimed invention is able to alert the “second party at a site location” (preferably, a customer of the first party) that another component

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version is available for upgrading, *before* a configuration change has been made. This is clearly not the purpose of the Martinez *et al.* device and therefore this reference teaches away from the present invention.

In the Final Action, the Examiner further states that Ogushi *et al.* discloses a server that communicates version upgrade information to at least one component (*i.e.* the browser software allows the vendor to retrieve a new version of software) citing a passage of this reference from col. 5, line 64 through col. 6, line 1. From this, the Examiner concludes that a combination of Ogushi *et al.* and Martinez *et al.* would disclose a first party that communicates version upgrade information in response to version information from the component. However, the cited passage discloses that the "browser software of the window shown in FIG. 5 has a hyperlink function (410 to 412) which allows each worker in each department of the vendor and each operator in each factory to access detailed information of each item, retrieve a new version of the software from the software library, or retrieve an operation guide (auxiliary information) as the reference for the operator in the factory." It is clear that this disclosure is only concerned with providing user access to archived information associated with an item. There is no disclosure in this passage of *communicating version upgrade information to the component in response to version information from the component that does not correspond to a latest version*, in accordance with the claimed invention. In view of at least the foregoing arguments, it is readily apparent that the cited documents, taken alone or in combination, do not disclose or suggest every aspect of the claimed invention. Accordingly, the rejection of independent claims 40, 50, 59, 69, 70, 74 and 77 (and associated claims that depend therefrom) should be withdrawn.

### **III. Rejection of Claims 50-56 and 58 Under 35 U.S.C. §103(a)**

Claims 50-56 and 58 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ogushi *et al.* (US 6,385,497) in view of Shigematsu *et al.* (US 5,432,715) and further in view of Sekizawa (US 6,430,711) and further in view of Martinez *et al.* (US 5,956,665). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Neither Ogushi *et al.*, Shigematsu *et al.*,

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Sekizawa, nor Martinez *et al.* (US 5,956,665), individually or in combination, disclose or suggest all the claim limitations of the subject claims.

Independent claim 50 recites *status information that includes component version information, such that the website communicates version upgrade information to at least one of the plurality of components in response to outdated component version information.* As stated in the previous sections, neither Ogushi *et al.*, Shigematsu *et al.*, nor Martinez *et al.*, alone or in combination, disclose or suggest such aspects of applicant's claimed invention. Sekizawa fails to overcome the deficiencies of Ogushi *et al.* and Shigematsu *et al.* with regard to the subject claims. Specifically, Sekizawa fails to disclose or suggest a website that communicates upgrade information to a component that is running an outdated version. In view of at least the foregoing, it is readily apparent that none of the cited references, whether taken alone or in combination, make obvious independent claim 50 (and claims which depend respectively there from). Accordingly, this rejection should be withdrawn.

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CONCLUSION

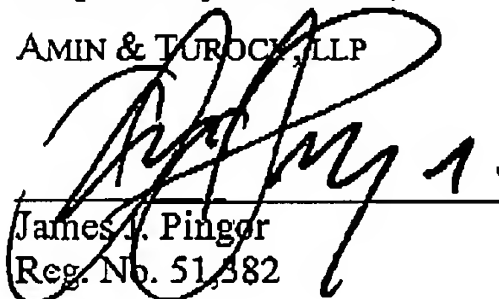
The present application is believed to be in condition for allowance, in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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